

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

James Rose,)	Civil Action No. 0:17-02000-AMQ-PJG
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Thierry Nettles; Andrew Rockefeller;)	
William Cline; Wellington Williams;)	
Casper Phiri, Sylvester Sanchez; Albert)	
Mack; Timmothy Clark; Von Mutius,)	
)	
Defendants.)	

Plaintiff James Rose ("Plaintiff"), proceeding *pro se*, brought this action pursuant to 42 U.S.C. § 1983 alleging that his Eighth and Fourteenth Amendment rights were violated by the defendants while he was incarcerated at the Lieber Correctional Institution in Ridgeville, South Carolina. (ECF No. 1.) The matter is before the Court for review of the Report and Recommendation ("Report") of United States Magistrate Judge Paige J. Gossett recommending that the motions to dismiss filed by Defendants Sylvester Sanchez, Thierry Nettles, and Casper Phiri be granted (ECF Nos. 24, 25, 26); that Defendants Sanchez, Nettles, and Phiri be dismissed from this matter without prejudice pursuant to Federal Rule of Civil Procedure 4(m). The Report also recommends that the motion to dismiss (ECF No. 27) filed by Defendant Lisa Young be terminated as Plaintiff's case against her is proceeding under a separate civil action number. (ECF No. 14.) The Report was issued in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B) for the District of South Carolina.

Magistrate Judge Gossett issued the Report on March 29, 2018. (ECF No. 64.) The Magistrate Judge advised Plaintiff of the right to file objections to the Report, the

procedures and requirements for filing objections to the Report, and the serious consequences if he failed to do so. (ECF No. 64 at 4.) As of the date of this Order, Plaintiff has filed no objections and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court may accept, reject, or modify, in whole or in part, the Report or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); see *Wells v. Shriners Hosp.*, 109 F.3d 198, 200 (4th Cir. 1997) (“[t]he Supreme Court has authorized the waiver rule that we enforce... ‘[A] court of appeals may adopt a rule conditioning appeal, when taken from a district court judgment that adopts a magistrate’s recommendation, upon the filing of objections with the district court identifying those issues on which further review is desired.’”) (citing *Thomas v. Arn*, 474 U.S. 140, 155 (1985)).

After a thorough review of the record, the applicable law, and the Report, the Court finds the Magistrate Judge’s recommendation to be proper and has determined that there is no clear error on the face of the record. Accordingly, the Court adopts the

recommendation and incorporates the Report herein by specific reference. The motions to dismiss filed by Defendants Sylvester Sanchez, Thierry Nettles, and Casper Phiri are hereby GRANTED (ECF Nos. 24, 25, 26) and Defendants Sanchez, Nettles, and Phiri are dismissed from this matter without prejudice pursuant to Plaintiff's failure to timely serve these defendants pursuant to Federal Rule of Civil Procedure 4(m). The motion to dismiss (ECF No. 27) filed by Defendant Lisa Young is terminated as moot.

IT IS SO ORDERED.

/s/ A. Marvin Quattlebaum, Jr.
United States District Judge

May 16, 2018
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.